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Attorneys for Plaintiffs

**UNITED STATES DISTRICT COURT, DISTRICT OF MONTANA
BUTTE DIVISION**

THE IMPERIAL SOVEREIGN COURT
OF THE STATE OF MONTANA; ADRIA
JAWORT; RACHEL CORCORAN; THE
MONTANA BOOK COMPANY; IMAGINE
BREWING COMPANY, LLC d/b/a
IMAGINE NATION BREWING
COMPANY; BUMBLEBEE AERIAL
FITNESS; MONTANA PRIDE; THE
WESTERN MONTANA COMMUNITY
CENTER; THE GREAT FALLS LGBTQ+
CENTER; THE ROXY THEATER; and
THE MYRNA LOY,

Plaintiffs,

vs.

AUSTIN KNUDSEN; ELSIE ARNTZEN;
J.P. GALLAGHER; and the CITY OF
HELENA,

Defendants.

Cause No. CV 22-50-BU-
BMM

**Declaration of
Annatheia Smith**

I, Annatheia Smith, declare as follows:

1. I am over the age of eighteen years, am competent to testify as to the matters set forth herein, and I make this declaration based upon my personal knowledge and belief.
2. I am a resident of Missoula, Montana.
3. I am the president of The Imperial Sovereign Court of the State of Montana (“the Imperial Court”), a domestic nonprofit corporation founded in 1993 and headquartered in Missoula, Montana.
4. The Imperial Court is a membership organization. Individuals must be 18 years old to become a member.
5. I am a member of the Imperial Court, performing as a drag queen under the name “Diana Bourgeois.” I was named Empress 24 of the State of Montana in 2019.
6. I am a cisgender female, a mother, grandmother, and a disabled veteran who was honorably discharged.
7. The mission of the Imperial Court is to educate and advocate for LGBTQ+ individuals and allies through the production of community-based drag performances that explore multiple gender

expressions in an entertaining and educational atmosphere and create a safe and welcoming environment.

8. The Imperial Court is a prolific fundraiser, directing all net proceeds from its events to enriching the community. The Imperial Court has donated to the Bozeman Symphony, SAGA schools, and other Montana nonprofit organizations.
9. Imperial Court events also raise funds for homeless shelters and other community needs and the Imperial Court provides numerous scholarships to LGBTQ+ and allied individuals across the state.
10. Additionally, the Imperial Court supports the community by being a safe space for conversation and gatherings. For example, after a Neo-Nazi group attacked Bozeman Pride, causing injuries and emotional trauma, we opened our doors, held debrief sessions, and compiled a resource list for the community.
11. Imperial Court members are impactful educators, hosting conversations and seminars on many important topics, including consent, sober driving, gender identity, sexual orientation, and acceptance. As with all the Imperial Court's activities, these

educational events are carefully curated to be age-appropriate for each audience.

12. The Imperial Court's drag performances are strictly tailored based on age group, with some performances for adults-only and other performances for all-ages. We take steps to ensure that minors do not attend shows intended for our adult-only audiences.
13. The all-ages drag performances we put on are appropriate for anybody. We do not perform burlesque-style drag or striptease. Our performances are strictly power-lip syncing to uplifting songs.
14. The costumes for these all-ages performances are also age-appropriate, with exhaustive guidelines outlining what is and is not appropriate costuming for an all-ages show. Simply stated, if a performer could not wear it into a kindergarten class, they cannot wear it to an all-ages show.
15. Our drag performances necessarily include drag and flamboyant costuming and may also include sexual content as defined by HB 359. For example, under HB 359, the use of prosthetic cleavage at these events could be considered a "sexually oriented performance."

16. The Imperial Court produces drag shows at small business and public spaces across the state. Venues include public libraries, bookstores, bars, public parks, museums, churches, comedy clubs, schools, and even the Montana State Capitol building.
17. Many of these locations appear to be subject to the restrictions imposed by HB 359, severely curtailing our ability to perform and diminishing our reach.
18. Since HB 359 went into effect, we have had shows across the state canceled, modified, and placed in limbo.
19. While we were able to perform at Bozeman Pride on May 19 to 21, 2023, before HB 359 became effective, a show at the Museum of the Rockies originally scheduled for August 26, 2023, has been repeatedly rescheduled, with no clear sign that it will be allowed to happen at all.
20. A drag story hour event at Zoo Montana in Billings scheduled for June 22, 2023, has been postponed indefinitely due to HB 359. We successfully put on the same event at Zoo Montana just last year.

21. At Red Lodge Pride on June 2 and 3, 2023, we had to increase the restrictions for our all-ages performances and modify costuming due to concerns about HB 359's penalties. We also hired police officers for our performers' safety.
22. At Missoula Pride on June 17, 2023, event organizers modified our scheduled slate of events due to HB 359—and did not advertise the drag story hour event at all. As we did for Red Lodge Pride, we modified elements of the all-ages show in response to concerns about HB 359.
23. At Billings Pride on June 22 to 24, 2023, the drag story hour was again not advertised by event organizers and we were unable to perform any drag on public property.
24. At Anaconda Pride on June 30, 2023, in response to fears about HB 359's penalties, we changed our 16+ show to be adults-only. Unfortunately, this limited the reach of our performance and did not exercise the full community-building capacity our performance could have had.

25. At Butte Pride on July 1, 2023, we opted out of advertising our all-ages drag show and followed our new restrictions on costuming and performances due to HB 359.
26. At Libby Pride on July 8, 2023, we again did not advertise and were forced to modify the performance due to fear of HB 359's penalties.
27. Our performances planned for Montana Pride in Helena, from July 30 to August 6, 2023, are still uncertain. While we hope we can participate in uplifting and building community in downtown Helena, we anticipate that we will again follow our new, self-imposed restrictions and may not advertise our events out of fear of HB 359.
28. Across the state, our performers have been incredibly fearful of legal action being taken against them under HB 359.
29. As President of the Imperial Court, I am unable to determine how we can come into compliance with HB 359 while still serving our mission, our members, and our audience.

I declare under penalty of perjury that the foregoing is true and correct.

DATED this 17th day of July, 2023, in Missoula, Montana.

Declaration of Annatheia Smith

A handwritten signature in black ink, appearing to read "Annatheia Smith", is written over a blue rectangular box. The signature is stylized and cursive.

Annatheia Smith